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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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8 EDWARD ALVARADO, et al.,

No. C 04-0098 SI

9 Plaintiffs,

10 v. **ORDER GRANTING DEFENDANT'S  
MOTION TO STRIKE WRITS OF  
EXECUTION**

11 FEDERAL EXPRESS CORPORATION,

12 Defendant.

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14 Defendant has filed a motion to strike two writs of execution served by plaintiffs on Bank of  
15 America on April 18, 2008. Nearly a year ago, the Court issued orders staying execution of the  
16 Alvarado and Boswell judgments pending the disposition of post-trial orders and appeals, and requiring  
17 defendant to post a bond.<sup>1</sup> Defendant posted bonds on March 15, 2007 and June 7, 2007. After the  
18 resolution of a number of post-trial orders, on April 16, 2008, defendant filed notices of appeal  
19 regarding both Alvarado and Boswell.

20 The Court GRANTS defendant's motion and STRIKES the writs of execution. (Docket No.  
21 1073). Plaintiffs are ordered to immediately return the writs of execution to the Clerk of Court for  
22 safekeeping pending resolution of this matter as described below. Plaintiffs suggest that the Court's  
23 earlier orders staying the execution of the judgments are no longer in force because they were issued  
24 pursuant to Federal Rule of Civil Procedure 62(b), which relates to a stay of execution of a judgment  
25 pending resolution of post-trial motions. Plaintiffs assert that defendant is required to file new motions  
26 to stay the execution of the judgments pursuant to Federal Rule of Civil Procedure 62(d).

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28 <sup>1</sup> The order regarding plaintiff Alvarado references "appeals," while the order regarding plaintiff  
Boswell does not.

1       The Court finds that the appropriate course is to preserve the status quo staying execution of the  
2 judgments to allow full briefing on a Rule 62(d) motion. Defendant shall file such a motion no later  
3 than **May 1, 2008**, plaintiffs shall file an opposition by **May 9, 2008**, and defendant may file a reply,  
4 if any, by **May 14, 2008**. At that time, the Court will take the matter under submission and will issue  
5 an order shortly.

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7       **IT IS SO ORDERED.**

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9       Dated: April 22, 2008

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*Susan Illston*  
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SUSAN ILLSTON  
United States District Judge

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